

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 United States of America,
4 Plaintiff,
5 v.
6 Kenneth Gordon Wescott,
7 Defendant.

Case No. 2:14-cr-00085-APG-DJA

**Order Denying Defendant's Motion
for Hearing Concerning Equitable
Tolling**

[ECF No. 535]

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9 Defendant Kenneth Gordon Wescott filed a motion requesting an evidentiary hearing to
10 determine whether he qualifies for equitable tolling for a motion for relief under 28 USC § 2255
11 that he intends to file. ECF No. 535. I deny the motion as premature.

12 Wescott previously moved for a determination whether he qualified for equitable tolling.
13 ECF No. 511. I denied that motion without deciding the merits because it was premature. ECF
14 No. 516. I held that I lack authority to consider whether equitable tolling applies until after
15 Wescott files his § 2255 motion. *Id.* Wescott's present motion is likewise premature because he
16 wants me to determine whether he qualifies for equitable tolling before he files his motion. I
17 therefore deny his present motion.

18 I THEREFORE ORDER that Mr. Wescott's motion (**ECF No. 535**) is **DENIED** without
19 prejudice to seek equitable tolling after he has filed his § 2255 motion.

20 Dated: December 14, 2022.

21 
22 ANDREW P. GORDON
23 UNITED STATES DISTRICT JUDGE